



# House of Representatives

General Assembly

**File No. 708**

January Session, 2011

House Bill No. 6426

*House of Representatives, May 3, 2011*

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING THE APPOINTMENT OF FAMILY SUPPORT MAGISTRATES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (f) and (g) of section 46b-231 of the general  
2 statutes are repealed and the following is substituted in lieu thereof  
3 (*Effective January 1, 2012*):

4 (f) (1) (A) The Family Support Magistrate Division shall include nine  
5 family support magistrates who shall, (i) prior to January 1, 2012, be  
6 appointed by the Governor to serve in that capacity for a term of three  
7 years, and (ii) on and after January 1, 2012, be nominated by the  
8 Governor and appointed by the General Assembly to serve in that  
9 capacity for a term of four years, except that each family support  
10 magistrate serving on December 31, 2011, shall continue to serve in  
11 that capacity on and after January 1, 2012, until the expiration of such  
12 magistrate's three-year term, unless removed from office pursuant to  
13 this subsection, and shall continue to serve after the expiration of such  
14 three-year term until a successor is appointed or the family support

15 magistrate's nomination has failed to be approved in accordance with  
16 this subsection. A family support magistrate may be [reappointed  
17 upon completion of his term of office] nominated by the Governor for  
18 reappointment.

19 (B) To be eligible for [appointment,] nomination as a family support  
20 magistrate, a person must have engaged in the practice of law for five  
21 years prior to [his appointment] the person's nomination by the  
22 Governor and [shall] be experienced in the field of family law. [He] A  
23 family support magistrate shall devote full time to his or her duties as  
24 a family support magistrate and shall not engage in the private  
25 practice of law.

26 (2) Each nomination made by the Governor to the General  
27 Assembly for a family support magistrate shall be referred, without  
28 debate, to the committee on the judiciary, which shall report thereon  
29 within thirty legislative days from the time of reference, but no later  
30 than seven legislative days before the adjourning of the General  
31 Assembly.

32 (3) Each appointment of a family support magistrate shall be by  
33 concurrent resolution. The action on the passage of each such  
34 resolution in the House of Representatives and in the Senate shall be  
35 by vote taken on the electrical roll-call device. No resolution shall  
36 contain the name of more than one nominee. The Governor shall,  
37 within five days after the Governor has notice that any family support  
38 magistrate nomination has failed to be approved by the affirmative  
39 concurrent action of both houses of the General Assembly, make  
40 another nomination to such office.

41 (4) Notwithstanding the provisions of section 4-19, no vacancy in  
42 the position of a family support magistrate shall be filled by the  
43 Governor when the General Assembly is not in session unless, prior to  
44 such filling, the Governor submits the name of the proposed vacancy  
45 appointee to the committee on the judiciary. Within forty-five days, the  
46 committee on the judiciary may, upon the call of either chairperson,  
47 hold a special meeting for the purpose of approving or disapproving

48 such proposed vacancy appointee by majority vote. The Governor  
49 shall not administer the oath of office to such proposed vacancy  
50 appointee until the committee has approved such proposed vacancy  
51 appointee. If the committee determines that it cannot complete its  
52 investigation and act on such proposed vacancy appointee within such  
53 forty-five-day period, it may extend such period by an additional  
54 fifteen days. The committee shall notify the Governor in writing of any  
55 such extension. Failure of the committee to act on such proposed  
56 vacancy appointee within such forty-five-day period or any fifteen-day  
57 extension period shall be deemed to be an approval.

58 (5) Prior to a public hearing on a family support magistrate, the  
59 committee on the judiciary may employ a person to investigate, at the  
60 request of the chairpersons of said committee, any family support  
61 magistrate nominee with respect to the suitability of such nominee for  
62 magisterial office. Such investigator shall report his or her findings to  
63 said committee and any such report shall be confidential and shall not  
64 be subject to public disclosure. Such person shall receive such  
65 compensation as may be fixed by the Joint Committee on Legislative  
66 Management for each day such person is engaged in his or her duties  
67 as an investigator.

68 (6) A family support magistrate may be removed from office by the  
69 Governor for cause and is subject to admonishment, censure,  
70 suspension and removal from office as provided in chapter 872a.

71 (g) A Chief Family Support Magistrate shall be designated by the  
72 Chief Court Administrator of the Superior Court from among the nine  
73 family support magistrates appointed [by the Governor] pursuant to  
74 subsection (f) of this section, except that the Chief Family Support  
75 Magistrate serving in that capacity on December 31, 2011, shall  
76 continue to serve in that capacity on and after January 1, 2012, until the  
77 expiration of such family support magistrate's term, unless a successor  
78 is designated by the Chief Court Administrator or such family support  
79 magistrate is removed from office pursuant to subsection (f) of this  
80 section or such family support magistrate's nomination has failed to be

81 approved in accordance with subsection (f) of this section. Under the  
 82 direction of the Chief Court Administrator, the Chief Family Support  
 83 Magistrate shall supervise the Family Support Magistrate Division and  
 84 submit an annual report to the Chief Court Administrator and perform  
 85 such other duties as provided in this section.

86 Sec. 2. Subsection (b) of section 51-51q of the general statutes is  
 87 repealed and the following is substituted in lieu thereof (*Effective*  
 88 *January 1, 2012*):

89 (b) The Judicial Review Council shall submit its recommendations  
 90 concerning the nomination for reappointment of any family support  
 91 magistrate whose term of office is about to expire, including a report of  
 92 any investigation of any such family support magistrate by the council,  
 93 to the Governor and to the joint standing committee of the General  
 94 Assembly having cognizance of matters relating to the judiciary. The  
 95 Judicial Review Council shall provide information to said committee  
 96 concerning any complaint filed against such family support magistrate  
 97 and the investigation and disposition of such complaint, including, but  
 98 not limited to, confidential information, in the same manner and  
 99 subject to the same requirements as information provided under  
 100 subdivisions (1) and (2) of subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2012</i>	46b-231(f) and (g)
Sec. 2	<i>January 1, 2012</i>	51-51q(b)

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

---

***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

There is no fiscal impact associated with requiring future appointments and reappointments of family support magistrates be subject to approval by the General Assembly.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****HB 6426*****AN ACT CONCERNING THE APPOINTMENT OF FAMILY SUPPORT MAGISTRATES.*****SUMMARY:**

This bill authorizes the governor to nominate, rather than appoint, family support magistrates, beginning January 1, 2012. It requires the legislature to approve or disapprove such nominees in the same way it approves nominations for judges and workers' compensation commissioners.

The bill lengthens family support magistrates' terms from three to four years and provides for the transition from the currently serving family support magistrates to those the General Assembly appoints.

The bill expands the Judicial Review Council's role in the reappointment process for family support magistrates, making it similar to its procedures in the judges' nomination process. Currently, the council submits its recommendations concerning the reappointment of a family support magistrate to the governor. The recommendation includes a report of any investigation it conducts. The bill requires the council to submit its recommendation and report to the Judiciary Committee as well. It requires including information concerning any complaint filed against the family support magistrate, the investigation, and its disposition, including confidential information. The council's recommendations and information are treated just as its reports on complaints regarding judges are handled by the committee.

EFFECTIVE DATE: January 1, 2012

---

**NOMINATION AND APPOINTMENT OF FAMILY SUPPORT MAGISTRATES*****Investigation***

As authorized under current law for judges, the Judiciary Committee may, at the request of its chairpersons, hire someone to investigate the suitability of any family support magistrate nominee before the committee's public hearing on the nomination. The investigator must report his or her findings to the committee. The report is confidential.

The investigator is paid an amount set by the Joint Committee on Legislative Management for each day worked.

***Approval or Disapproval***

Under the bill, each gubernatorial nomination for a family support magistrate must be referred, without debate, to the Judiciary Committee, which must report on the nomination within 30 legislative days of the referral (see BACKGROUND), but no later than seven legislative days before the General Assembly adjourns. As under current law, a family support magistrate can serve more than one term if renominated by the governor for reappointment. Legislative approval must be by roll-call vote in both chambers on a separate concurrent resolution for each individual nominee.

Within five days after the governor "has" notice that a nomination has been disapproved, he or she must nominate another person to the office.

***Appointment When the Legislature is Not in Session***

When the General Assembly is not in session, in order to fill a family support magistrate vacancy the governor must submit the nominee's name to the Judiciary Committee. Within 45 days, the committee may, upon the call of either chairperson, hold a special meeting to approve or disapprove the appointee by a majority vote. If the committee determines that it cannot complete its investigation and act on the vacancy within the 45-day period, it can extend the deadline

by another 15 days and must notify the governor of the extension.

The bill bars the governor from swearing in a nominee until the committee has approved the vacancy appointment, but it provides that the committee's failure to act on the proposed appointee within the 45 days or any 15-day extension is deemed approval.

## **TRANSITION**

Family support magistrates under the bill serve four-year rather than three-year terms. Those serving as family support magistrates on December 31, 2011, continue to serve until the term expires and a successor is appointed, unless removed or the magistrate's nomination is not approved.

The chief family support magistrate, who the chief court administrator continues to designate as under current law, serves until his or her term expires, unless (1) the chief court administrator designates a successor, (2) the chief family support magistrate is removed from office, or (3) the magistrate's nomination is not approved.

## **BACKGROUND**

### ***Family Support Magistrates***

By law, the nine family support magistrates must have five years' experience in the practice of law, be experienced in the field of family law, devote full time to family support magistrate duties, and not engage in private practice. A family support magistrate can be removed from office by the governor for cause (CGS § 46b-231(f)). He or she is also subject to censure, suspension, or removal by the state Supreme Court, on the Judicial Review Council's recommendation or its own motion, for:

1. conduct prejudicial to impartial and effective administration of justice that brings disrepute to the office;
2. willful use of the office for financial gain or violation of the canon of judicial ethics;

3. willful and persistent failure to perform, or the neglectful or incompetent performance of, the duties of the office;
4. final conviction of a felony or of a misdemeanor involving moral turpitude;
5. attorney disbarment or suspension;
6. willful failure to file a financial statement with the Office of the Chief Court Administrator; or
7. temperament that adversely affects the orderly carriage of justice.

***Legislative Day***

Neither the statutes nor the General Assembly's Joint Rules define "legislative day." A Legislative Commissioners' Office (LCO) interpretation advises that the common meaning of legislative day seems to be any calendar day on which either house is in session, whether a technical or regular session. LCO notes that it could be argued that a legislative day is every day the legislature is in session in the broad sense, whether or not the House or Senate actually convene on any given day. Since the bill and other statutory references specify "legislative days" rather than "days" or "calendar days," it is assumed that legislative days is not equivalent to calendar days.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea    45    Nay   0    (04/15/2011)